REMARKS

In an Official Action dated May 6, 2005, the Examiner imposed a restriction requirement between three groupings of claims. Applicants request that the Examiner reconsider the restriction in light of the foregoing.

Pursuant to MPEP §803 a restriction requirement is only proper if (1) the claimed inventions are independent and distinct **and** (2) there would be a serious burden on the examiner if restriction is not required. In addition, the burden is on the Examiner to establish that restriction is proper. As discussed below, the Examiner has not met his burden of showing that the restriction requirement is proper.

The Examiner has grouped the claims into three different groupings:

Group I - claims 1-5 and 15-19 drawn to an elongated arm classified in 604/110.
Group II - claims 6-13 drawn to a surface, classified in 604/164.01.
Group III - claim 4 drawn to a method of inserting a catheter, classified in 604/507.

Applicants traverse the restriction of the claims because the Examiner has not met his burden of showing that restriction is proper. The Examiner has arbitrarily categorized the claims in Groups I and II into difference sub-classes, even though both sets of claims fit into both subclasses.

Subclass 110 is directed to inventions having a means for preventing re-use. This sub-class includes all of the claims in Groups I and II. Specifically, the device is a safety catheter insertion device that automatically retracts the device after use. Therefore, all of the claims in Groups I and II are directed to a product that is designed to prevent re-use of the product. For this reason, Applicants believe that the difference in the categorization of the claims does not meet the Examiner's burden to show that the restriction is proper.

Similarly, subclass 164.01 includes all of the claims in Groups 1 and II. Specifically, subclass 164.01 is directed to a body piercer, obturator rod or stylet axially movable with a body entering conduit while the latter is disposed in the body. Since all of the claims in Groups I and II are directed to a device having a needle and a removable catheter, all of the claims fall under subclass 164.01. Accordingly, Applicants believe that the difference in the categorization of the claims does not meet the Examiner's burden to show that restriction is proper.

Applicants also note that subclass 110 and 164.01 are both indented under the same subclass, namely 93.01. Therefore, all of the claims in Groups I and II are properly classified under the subclasses identified by the Examiner.

In the Examiner's explanation for why the claims in Group I and II are distinct, the Examiner has simply pointed out that there is a difference between the two groups of claims. This is necessarily true for any related subcombinations that are not claimed exactly the same. However, the MPEP requires the Examiner to show why there would be a "serious burden" on the Examiner if restriction is required. As discussed above, all of the claims in Groups I and II are properly classified in the subclasses identified by the Examiner. Further, the Examiner recognizes that the claims in Groups I and II are related sub-combinations. Therefore, the Examiner has not made any showing as to why there would be a serious burden if restriction is not required.

With regard to claim 14 in Group III, the Examiner contends that restriction is proper because the product can be used in a method not requiring the step of retracting the needle into the housing. Applicants do not understand this statement since the claims in Groups I and II discuss that the needle is operable in an extended position in which the sharpened tip of the needle projects from the housing and a retracted position in which the sharpened tip is disposed within the housing. How can

this occur without retraction of the needle relative to the housing?

In light of the foregoing, Applicants request that the Examiner reconsider the restriction between the Groups I and II, and also the restriction between the product claims in Groups I and II, and the method of use in claim 14.

Although Applicants believe that restriction is not necessary in the present instance, in order to ensure that this response is complete, Applicants elect the claims in Group I, which include claims 1-5 and 15-19.

The Examiner also imposed an election requirement between twelve identified species. Applicants also traverse the election requirement, because all of the species are related to automatically retractable catheter insertion devices and the claims are generic to most of the species identified by the Examiner. However, in order to make this response complete, Applicants hereby elect species IX, which includes the species shown in Figs. 25-27.

In light of the foregoing, Applicant believes that this application is in form for substantive examination. The Examiner is encouraged to contact Applicant's undersigned attorney if the Examiner believes that issues remain that would impede the substantive examination of this application.

Respectfully submitted,

DANN, DORFMAN, HERRELL & SKILLMAN
A Professional Corporation
Attorneys for Applicant(s)

By _____
Stephen H. Eland
PTO Registration No. 41,010

Telephone: (215) 563-4100
Facsimile: (215) 563-4044

Petition for Extension Under 37 CFR §1.136(a)

Applicant's undersigned Attorney hereby petitions for an extension of time of **TWO** month beyond the time period set in the last office communication. The proper fee is enclosed as identified in the enclosed Fee Transmittal form.

August 8, 2005
Date of Certificate

_____
Stephen H. Eland
PTO Registration No. 41,010